

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY) MDL No. 1456
AVERAGE WHOLESALE PRICE LITIGATION) Master File No. 01-12257-PBS
)
THIS DOCUMENT RELATES TO:) Judge Patti B. Saris
State of California, *ex rel.* Ven-A-Care v.)
Abbott Laboratories, Inc., *et al.*)
CASE #: 1:03-cv-11226-PBS)
)

STATE OF CALIFORNIA'S AND *QUI TAM* PLAINTIFF'S
STATUS REPORT-OCTOBER 3, 2005

The undersigned counsel, on behalf of plaintiff STATE OF CALIFORNIA (“CALIFORNIA”) and *qui tam* plaintiff VEN-A-CARE OF THE FLORIDA KEYS, INC. (“VEN-A-CARE” or “*qui tam* plaintiff”), hereby submit the attached Status Report to the Court in accordance with the Court’s June 17, 2004 Procedural Order.

Respectfully submitted,

BILL LOCKYER
Attorney General for the State of California

Dated: October 3, 2005

By: /s/ Brian V. Frankel
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Dated: October 3, 2005

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MDL 1456 Status Report

State of California, ex rel. Ven-A-Care v. Abbott Laboratories, Inc., et al.

Case No.: 1:03-cv-11226-PBS

First Amended Complaint in Intervention

Plaintiffs filed a First Amended Complaint in Intervention on August 25, 2005.

Motion to File Unredacted Exhibits Under Seal

On August 25, 2005, plaintiffs filed a motion for leave to file unredacted Exhibits under seal. The Exhibits are Exhibits A-K and Exhibits M-R to the First Amended Complaint in Intervention. Redacted versions of such Exhibits were filed (and served on existing parties through Verilaw) on August 25, 2005, along with the First Amended Complaint in Intervention. The Court granted such motion, and the unredacted Exhibits have been filed under seal.

State of California's Election to Decline

On September 9, 2005, the State of California filed a motion for leave to file "State of California's Election to Decline as to Certain Defendants and Allegations" ("Election to Decline") under seal. The Court granted such motion on September 14, 2005. The Election to Decline was filed under seal on September 14, 2005.

Qui Tam Plaintiff's Notice of Election/Dismissal

On or about September 12, 2005, the *qui tam* plaintiff filed a motion for leave to file its "Notice of Election to Proceed and Notice of Dismissal" ("Notice of Election/Dismissal") under seal. The Court granted such motion, and the Notice of Election/Dismissal was filed under seal on September 14, 2005.

Anticipated Filings

The Attorney General of California will be filing additional motions/pleadings, under seal when necessary, to dispose of the state's interests in matters remaining under seal. In addition,

plaintiffs will request a Status Conference and the entry of a Case Management Order by a motion to be filed after the defendants named in the First Amended Complaint in Intervention have been served and can participate.

CERTIFICATE OF SERVICE

I, Brian V. Frankel, hereby certify that on October 3, 2005, I caused a true and correct copy of the foregoing, **STATE OF CALIFORNIA'S AND *QUI TAM* PLAINTIFF'S STATUS REPORT-OCTOBER 3, 2005**, to be served on all counsel of record via electronic service pursuant to Paragraph 11 of Case Management Order No. 2, by sending a copy to LexisNexis File & Serve for posting and notification to all parties.

Dated: October 3, 2005

/s/ Brian V. Frankel

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